

shall contain language so indicating on the face of the form or in its instructions. Such information may, however, be disclosed in aggregate form in such a manner that individual company data is not disclosed or derivable.

(b) *Duty to submit information.* This subpart does not modify in any manner the obligation of any person or company to submit, pursuant to any law or regulation, any document, information, form, or other filing to the Board or any Federal Reserve Bank.

(c) *Public comments.* (1) Any comments submitted by a member of the public on applications and regulatory proposals being considered by the Board are public unless the Board or the Secretary determines that confidential treatment is warranted.

(2) A request for confidential treatment of such comments shall be submitted in a separate letter or memorandum accompanying the comments and on which the words, “Request for Confidential Treatment” are prominently displayed. Notwithstanding any other provision of this regulation, the Board need not inform any person submitting such comments of a decision not to afford confidential treatment to the comments.

**§ 261.16 Submission and form of request for confidential treatment; action on request.**

(a) *Submission of request.* Any submitter of documents or information to the Board who desires that they be afforded confidential treatment pursuant to 5 U.S.C. 552(b)(4) shall file a request for confidential treatment with the Board (or in the case of documents filed with a Federal Reserve Bank, with that Reserve Bank), at the time they are submitted or a reasonable time after submission.

(b) *Form of request.* Each request for confidential treatment shall state in reasonable detail the facts and arguments supporting the request and its legal justification. Conclusory statements that particular information would be useful to competitors or would impair sales, or similar statements, generally will not be considered sufficient to justify confidential treatment.

(c) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated “Confidential” in the submission and clearly separated from information for which confidential treatment is not requested.

(d) *Action on request.* (1) Requests for confidential treatment of any documents shall be considered in connection with any request for access to the documents. At their discretion, appropriate Board or staff members (including Reserve Bank staff) may act on the request for confidentiality prior to any request for access to the documents.

(2) Any request for confidentiality pursuant to 5 U.S.C. 552(b)(4) shall be handled in accordance with § 261.17 of this subpart.

(3) Nothing in this section limits the Secretary’s authority to make determinations regarding requests for access to records under § 261.9.

(e) *Special procedures.* The Board may establish special procedures for particular documents, filings, or types of information by express provisions in this regulation or by instructions on particular forms that are approved by the Board. These special procedures shall take precedence over the procedures set out in this subpart.

**§ 261.17 Confidential commercial or financial information.**

(a) *Request for confidential information.* (1) The Secretary shall notify a submitter of any request for access to all or a portion of information provided to the Board by the submitter if:

(i) The submitter requested confidential treatment of that information pursuant to 5 U.S.C. 552(b)(4) (“trade secrets and commercial or financial information obtained from a person and privileged or confidential”); and

(ii) The request by the submitter for confidential treatment was made within 10 years preceding the date of the request for access.

(2) Absent a request by a submitter for confidential treatment, the Secretary may notify a submitter of a request for access to all or a portion of information provided by the submitter